RULES OF THE U. S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

Current with amendments received through 1/15/2005

INTRODUCTION

The following rules, adopted by the judges of the United States District Court for the Western District of Washington, shall bind all parties to proceedings before this court. These rules shall supersede all prior rules of this court.

Rules designated "GR" are rules of general application.

Rules designated "CR" are applicable to civil actions. They are numbered to correspond where possible with rules having similar subject matter in the Federal Rules of Civil Procedure, including the Supplemental Rules for Certain Admiralty and Maritime Claims.

Rules designated "CrR" are applicable to criminal matters. They are numbered to correspond where possible with rules having similar subject matter in the Federal Rules of Criminal Procedure.

Rules designated "MJR" are applicable to United States magistrate judges and proceedings before them.

These rules may be cited "Local Rules W.D.Wash."

[Effective May 1, 1992; amended effective July 1, 1997.]

GENERAL RULES

GR 1. REGULAR SESSIONS OF COURT

Regular sessions of court shall be held as follows:

Seattle:	Continuously throughout the year.
Tacoma:	Continuously throughout the year.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 2. ATTORNEYS

(a) Roll of Attorneys. The bar of this court consists of those heretofore and those hereafter admitted to practice before this court who have taken the oath prescribed by the rules in force when they were admitted or that prescribed by subsection (c)(3) hereof.

(b) Eligibility. Any attorney who is a member in good standing of the Washington State Bar, and any attorney who is a member in good standing of the bar of any state and who is employed by the United States or one of its agencies in a professional capacity and who, while being so employed may have occasion to appear in this court on behalf of the United States or one of its agencies, is eligible for admission to the bar of this court.

(c) Procedure for Admissions.

(1) Each applicant for admission to the bar of this court shall file with the clerk a written petition setting forth his residence and office addresses, his general and legal education, and by what courts he has been admitted to practice. The petition shall contain a certification by the applicant that he has read the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court. The petition shall be accompanied by certificates from two reputable persons who are either members of the bar of this court or known to the court, stating how long and under what circumstances they have known the petitioner and what they know of the petitioner's character. If a certificate is presented by a member of the bar of this court, it shall also state when and where he was admitted to practice in this court. The clerk will examine the petitions and certificates and if in compliance with this rule, the petitions for admission will be presented to the court in a group at a session to be arranged by the clerk. Petitions for admission may be presented at other times only upon good cause shown, and not earlier than five days after the filing of the petition. When a petition is called, one of the members of the bar of this court shall move the admission of the petitioner. If admitted, the petitioner shall in open court take the oath set forth in subsection (3) hereof, and pay the statutory fee.

(2) In the case of an attorney for the United States or one of its agencies who is not a member of the Washington State Bar, his or her petition must contain all information set forth under subsection (1) hereof, except that in lieu of certificates from two members of the bar, the applicant will provide a verification from one of this district's Assistant U.S. Attorneys that the individual is an Attorney for the United States. In addition, the applicant shall state the department or agency by which he or she is employed and the circumstances justifying the proposed admission to the bar of this court. The right of such an attorney to practice before this court is conditional upon his or her continuing to be so employed or becoming a member of the Washington State Bar.

(3) The following is the oath to be taken upon admission to the bar of this court:

"I solemnly swear or affirm that I will support and defend the Constitution and the laws of the United States of America against all enemies, foreign and domestic; that I will

bear true faith and allegiance to the same; that I will well and faithfully discharge my duties as a lawyer, counselor and proctor of this court; that I will maintain the respect due to the courts of justice and judicial officers and that I will demean myself uprightly and according to law and the recognized standards of ethics of the legal profession and abide by the Local Rules of this court."

(d) Permission to Participate in a Particular Case. Any member in good standing of the bar of any court of the United States, or of the highest court of any other state, or of any organized territory of the United States, and who neither resides nor maintains an office for the practice of law in the Western District of Washington normally will be permitted upon application and upon a showing of particular need to appear and participate in a particular case if there shall be joined of record in such appearance an associate attorney having an office in this district and admitted to practice in this court who shall sign all pleadings prior to filing and otherwise comply with CR 10(e) hereof. Attorneys who are admitted to the bar of this court but reside outside the district need not associate with local counsel.

Such application shall be promptly filed with the clerk and shall set forth: (1) the name and address of the applicant's law firm; (2) the basis upon which "particular need" is claimed; (3) a statement that the applicant understands that he is charged with knowing and complying with all applicable local rules; (4) a statement that the applicant has not been disbarred or formally censured by a court of record or by a state bar association; and (5) a statement that there are no pending disciplinary proceedings against the applicant. This application shall be accompanied by a representation by local counsel that he is authorized and will be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present upon any date assigned by the court. Applications filed under this rule will be approved or disapproved by the clerk.

(e) Standards of Professional Conduct.

In order to maintain the effective administration of justice and the integrity of the Court, attorneys appearing in this District shall be familiar with and comply with the following materials ("Materials"):

(1) The Local Rules of this District, including the Local Rules that address attorney conduct and discipline;

(2) The Washington Rules of Professional Conduct, as promulgated, amended, and interpreted by the Washington State Supreme Court (the "RPC"), and the decisions of any court applicable thereto;

(3) The Federal Rules of Civil and Criminal Procedure;

(4) The General Orders of the Court.

In applying and construing these Materials, the Court may also consider the published

decisions and formal and informal ethics opinions of the Washington State Bar Association, the Model Rules of Professional Conduct of the American Bar Association and Ethics Opinions issued pursuant to those Model Rules, and the decisional law of the state and federal courts.

(f) Attorney Discipline.

(1) *Jurisdiction.* Any attorney admitted to practice before this Court, admitted for a particular proceeding and/or who appears before this Court is subject to the disciplinary jurisdiction of this Court.

(2) *Powers of an Individual Judge to Deal with Contempt or Other Misconduct Not Affected.* Nothing contained in this Rule shall be construed to limit or deny the Court the powers necessary to maintain control over proceedings before it, including the contempt powers. Nothing contained in this Rule precludes the Court from imposing sanctions for violations of the Local Rules, the Federal Rules of Civil and Criminal Procedure, or other applicable statutes and rules.

(3) *Grounds for Discipline.* An attorney may be subject to disciplinary action for any of the following:

(A) violations of the Standards of Professional Conduct stated in subsection (e) above;

(B) disbarment, suspension, sanctions or other attorney discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession, or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys;

(C) conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2)(B)-(C) of the Washington Rules of Enforcement of Lawyer Conduct ("ELC");

(D) misrepresentation or concealment of a material fact made in an application for admission to the Bar of this Court or in a pro hac vice or reinstatement application;

(E) violation of this Court's Oath of Attorney.

(4) *Types of Discipline.* Discipline may consist of one or more of the following:

(A) disbarment from the practice of law before this Court.

(B) suspension from the practice of law before this Court for a specified period;

(C) interim suspension from the practice of law before this Court, defined as the temporary suspension of a lawyer from the practice of law pending imposition of final discipline. Examples of situations in which the Court will consider interim suspension include:

(i) suspension upon conviction of a serious crime, or

(ii) suspension when the lawyer's continuing conduct is likely to cause immediate and serious injury to a client or the public;

(D) reprimand, defined as a form of public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this Court;

(E) admonition, defined as a form of non-public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this Court;

(F) The following types of discipline may be imposed alone or in conjunction with other types of discipline. If imposed alone or in conjunction with a reprimand, these other types of discipline need not be made public by the Court:

(i) probation, with or without conditions;

(ii) restitution;

(iii) fines and/or assessment of costs; and

(iv) referral to another appropriate disciplinary authority.

Any discipline imposed may be subject to specific conditions, which may include, but are not limited to, continuing legal education requirements, counseling and/or supervision of practice.

(5) *Discipline Initiated by the Court.*

(A) Authority of the Court. The powers of the Committee on Discipline and the Special Disciplinary Counsel, as described herein, arise from the Court's inherent authority to govern the conduct of attorneys practicing law before it. The powers of the Committee of Discipline and the Special Disciplinary Counsel shall be governed by and subject to the Federal Rules of Civil Procedure, the Local Rules of this Court, any General Orders of this Court may promulgate to administer these Rules on Professional Conduct and Attorney Discipline, and the Court's general supervisory authority over the entire process for imposing attorney discipline.

(B) Committee on Discipline. The Court will maintain a Committee on Discipline (the "Committee"). The Committee shall consist of at least three attorneys who are members of the Bar of the Court. However, in the event of any vacancy or vacancies, the Committee may continue to perform any of the functions authorized by this Rule as long as there are at least two members in office.

Committee members shall be appointed by the Chief Judge, who shall designate one of their members to serve as the chair. A Committee member shall serve for a term of three years, but may continue in office, upon order of the Chief Judge, beyond said three-year term to complete pending matters in which a member is participating. Should any Committee member not complete a three-year term, that member's replacement shall complete the length of the term remaining.

The Committee shall have no duties or obligations in cases involving reciprocal discipline or discipline based upon a criminal conviction, unless the Court specifically refers such a matter to the Committee.

Committee members shall not be compensated for their time, unless otherwise ordered by the Court. Committee members shall be reimbursed for costs and expenses incurred in performing their duties under this Rule.

(C) *Grievances and Initial Investigation.* A grievance alleging that an attorney has violated any of the standards of conduct specified in this Rule may be referred to the Committee from any United States District Court Judge, Bankruptcy Judge, or Magistrate Judge. The grievance shall be in writing and addressed to the COmmittee in care of the Clerk of the Court. The Clerk shall promptly serve a copy of the grievance on the attorney affected and provide a copy to the Chair of the Committee. If, at any time during the initial evaluation and investigation of a grievance, the Committee determines that the grievance would be more appropriately addressed by the Washington State Bar Association or other governing authority or administrative body which governs the practice of attorneys, the Committee shall inform the Chief Judge and the Judge who referred the grievance of this determination and may either refer the matter to another authority or recommend dismissal of the grievance to the Court, with or without prejudice.

> (i) The Committee shall promptly conduct such initial evaluation of the grievance as it deems appropriate to determine whether the grievance warrants further investigation. The Committee shall inform the Chief Judge of the results of its initial evaluation and its decision to pursue or not pursue further investigation.
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> (ii) If the Committee determines that the grievance warrants further investigation, it shall promptly conduct such investigation and prepare a written report to the Chief Judge. The Committee is authorized to

administer oaths and affirmations, to issue subpoenas to compel attendance by witnesses and responding attorneys, and to compel production of documents. The costs of these activities will initially be borne by the Court. However, the Court shall have the authority to order that the costs be paid by the attorney, if the attorney is disciplined.

(iii) The report shall include copies of statements of witnesses, all documentary evidence relative to the grievance, and a summary of findings.

(iv) No report shall be submitted until the respondent attorney has had a reasonable opportunity to submit to the investigators any evidence or statements relative to the grievance. Such evidence or statements shall be attached to the investigation report.

(v) The report shall recommend one of the following courses of action: (a) if the conduct complained of warrants discipline, the filing of a formal complaint and a hearing; (b) if the conduct complained of does not warrant a formal complaint and hearing, but does require intervention, an appropriate disposition of the grievance by the Court; (c) if the conduct complained of does not warrant either a formal complaint and hearing or intervention is not warranted, the dismissal of the grievance.

(vi) If the Committee determines that disciplinary action against the attorney should be pursued, it shall request that the Chief Judge appoint a member of the Bar of this Court who is not a Committee member to act as Special Disciplinary Counsel.

(vii) The Committee, the Special Disciplinary Counsel, and the Court shall maintain the confidentiality of grievances alleging grounds for discipline throughout the initial investigation, unless and until the Court determines that the matter should be referred for filing of a formal complaint and a summons and formal complaint have been filed. Nothing in this paragraph shall be construed to limit the Committee's ability to investigate grievances as provided in this section.

(D) *Appointment of Special Disciplinary Counsel.* At the request of the Committee, the Chief Judge may appoint a member of the Bar of the Court who is not a Committee member as Special Disciplinary Counsel to supervise and conduct such further investigation as may be appropriate, prosecute the matter before the Court, and defend any order of discipline on appeal. The Special Disciplinary Counsel shall be compensated by the Court upon terms to be agreed to in advance by the Court and the Special Disciplinary Counsel.

(i) The Special Disciplinary Counsel is authorized to prosecute allegations

involving attorney discipline. Subject to the Federal Rules of Civil Procedure and the Local Rules of this Court, the Special Disciplinary Counsel is authorized to perform all acts necessary to execute his or her duties, including, but not limited to, administering oaths and affirmations, issuing subpoenas to compel attendance by witnesses and responding attorneys, and compelling production of documents. The costs of these activities will initially be borne by the Court. However, the Court shall have the authority to order that the costs be paid by the attorney, if the attorney is disciplined. All powers of the Special Disciplinary Counsel are subject to the authority of the Court to control all matters involving attorney discipline.

(ii) Promptly after appointment, the Special Disciplinary Counsel shall prepare a summons and formal complaint. The complaint will be filed with the Court as a miscellaneous administrative action and an Article III judge (excluding the Chief Judge and any judge who initiated the grievance) shall be assigned to preside over the matter. The Chief Judge may, in his or her discretion, assign an Article III judge from another United States District Court if he or she deems it necessary to maintain an appearance of impartiality in the disciplinary matter.

(iii) Applicable Rules. The Federal Rules of Civil Procedure and the Local Rules of this Court will apply to any action prosecuted by the Special Disciplinary Counsel, subject to such modifications as the assigned Judge may order. the Federal Rules of Evidence will apply without modification.

(iv) The Special Disciplinary Counsel is authorized to conduct further investigation, as necessary, regarding the alleged misconduct of the respondent attorney and shall be responsible for presenting evidence to the Court relative to the complaint.

(E) *Immunity.* The investigation, prosecution, and determination of a disciplinary matter are inherently quasi-judicial functions and involve the exercise of discretionary judgment. As delegates of the Court performing those quasi-judicial functions, Committee members, the Special Disciplinary Counsel, and all other investigators and staff are immune from civil suit and liability for any conduct in the course of their official duties to the maximum extent allowed by law. To the fullest extent allowed by law, Committee members and the Special Disciplinary Counsel shall be indemnified and defended for any claims that may be brought against them arising out of their good faith execution of their duties pursuant to this Rule.

(F) *Notice and Hearing.*

(i) Complaint. The complaint shall be sufficiently clear and specific as to

inform the respondent attorney of the alleged misconduct. A copy of the summons and complaint shall be served, in conformity with Fed. R. Civ. P. 4, upon the respondent attorney.

(a) Provision for Default Service. If reasonable attempts to serve the summons and complaint in conformance with the requirements of Fed. R. Civ. P. 4 have not been successful, substitute service shall be made at any last known address the attorney has provided pursuant to the admission to practice law requirements of any state or federal district court where the attorney is admitted to practice law, including any state bar association or other official state registry of attorneys.

(b) Additional methods of substitute service shall be by order of the Court.

(ii) Case Management. After the complaint is filed and a judge has been assigned, the Court shall schedule a case management conference at the earliest opportunity to determine the extent to which the case should be expedited and to what extent the Federal Rules of Civil Procedure, including the rules governing discovery, should be applied or modified for the proceeding. The Court shall establish a discovery schedule, if applicable, a hearing date, and all other dates for the proceedings.

(iii) Standard of Proof. Proof of the alleged conduct shall be by clear and convincing evidence.

(iv) Jury. There is no right to a jury at the disciplinary hearing.

(G) *Confidentiality.* The Court may, in its discretion, order that the proceedings remain under seal at the request of the respondent attorney or the Special Disciplinary Counsel. The sealing of a disciplinary file shall not limit the Court's ability to notify other jurisdictions of the imposition of discipline.

(H) *Imposition of Discipline.* Within a reasonable time after the hearing, the Court shall make findings of fact and conclusions of law and specify the disciplinary action, if any, to be taken.

(i) The appropriate disciplinary sanction to be imposed is within the Court's discretion. However, in determining the proper disciplinary sanction, the Court may refer to the American Bar Association Standards for Imposing Lawyer Sanctions (the "ABA Standards"). In addition, the Court may, in its discretion, use as a guide any federal or state case law the Court deems helpful.

(ii) The Court may impose disciplinary sanctions only after:

(a) The respondent attorney is afforded the opportunity to present evidence and argument in mitigation; and

(b) The Special Disciplinary Counsel is afforded the opportunity to present evidence and argument regarding factors in favor of mitigation or aggravation of discipline. The respondent attorney and the Special Disciplinary Counsel should refer to the mitigating and aggravating factors outlined in the ABA Standards when presenting evidence in mitigation or aggravation of the discipline imposed.

(6) *Reciprocal Discipline.*

(A) For purposes of this section, "discipline by any other jurisdiction" refers to discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession, or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys.

(B) For purposes of this section, "discipline by any other jurisdiction" refers only to suspension, disbarment or other disciplinary action which temporarily or permanently deprives an attorney of the right to practice law.

(C) Upon receipt of a copy of an order or other official notification that he or she has been subjected to discipline by any other jurisdiction, an attorney who is also subject to the disciplinary jurisdiction of this Court shall provide the Clerk of the Court with a copy of such disciplinary letter, notice or order.

(D) Any attorney subject to the disciplinary jurisdiction of this Court who resigns from the Bar of any other jurisdiction while disciplinary proceedings are pending against the attorney in that jurisdiction shall promptly notify the Clerk of Court of such resignation.

(E) Upon receipt of reliable information that an attorney subject to the disciplinary jurisdiction of this Court has been subjected to discipline by any other jurisdiction, or has resigned from the Bar of any other jurisdiction while an investigation or proceeding for discipline was pending, the Chief Judge, or other district judge who may be assigned to the matter, may issue an Order to Show Cause why reciprocal discipline should not be imposed by this Court. The Order to Show Cause shall contain:

(i) a copy of the order or other official notification from the other jurisdiction;

(ii) an order directing the attorney to show cause within 30 days why reciprocal discipline should not be imposed by this Court;

(iii) an order directing that the attorney produce a certified copy of the entire record from the other jurisdiction or imposing the burden of persuading the Court that less than the entire record will suffice;

(iv) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed to be acquiescence to reciprocal discipline.

(F) If the attorney files a response stating that he or she does not contest the imposition of reciprocal discipline from this Court, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court may issue an order of reciprocal discipline. In fashioning the sanction to be imposed, the Court may be guided by the discipline imposed by the other jurisdiction. The order imposing reciprocal discipline shall be filed by the Chief Judge or other district judge who may be assigned to the matter.

(G) If the attorney files a written response to the Order to Show Cause within the time specified, stating that he or she contests the entry of an order of reciprocal discipline, then the Chief Judge, or other district judge who may be assigned, shall determine whether an order of reciprocal discipline shall be entered. The judge shall impose an order of reciprocal discipline, unless the attorney demonstrates by clear and convincing evidence that one or more of the following elements appear from the record on which the original discipline is predicated;

(i) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the other jurisdiction's conclusion(s) on that subject;

(iii) the imposition of like discipline would result in a grave injustice; or

(iv) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s).

(H) The Court may, in its discretion, refer a matter of reciprocal discipline to the Committee on Discipline for evaluation pursuant to paragraph (5) of this Rule. Nothing in this Rule requires the Court to make such a referral.

(7) *Discipline Based Upon a Criminal Conviction.*

(A) Any attorney subject to the disciplinary jurisdiction of this Court shall promptly notify the Clerk of Court of the attorney's conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2)(B)-(C) of the ELC (hereafter, "crime" or "criminal conviction").

(B) Upon receipt of reliable proof that an attorney has been convicted of any of those matters identified in paragraph A above, the Court shall enter an order of interim suspension, suspending the attorney from engaging in the practice of law in this Court pending further order. Upon good cause shown, the Court may set aside such suspension where it appears to be in the interest of justice to do so.

(C) The Court shall forthwith issue an order to the subject attorney directing the attorney to show cause why the conviction or the facts underlying the conviction do not affect the attorney's fitness to practice law and why the attorney should not be subject to discipline based upon the conviction. The Order to Show Cause shall contain:

> (i) a copy of the notification to the Court that the attorney has been convicted of a crime;
>
> (ii) an order directing the attorney to show cause within 30 days why the criminal conviction or underlying facts do not affect the attorney's fitness to practice law, and why discipline should not be imposed by this Court;
>
> (iii) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed acquiescence to discipline based upon the criminal conviction.

(D) If the attorney files a response stating that he or she does not contest the imposition of discipline by this Court based upon the criminal conviction, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court may issue an order of discipline.

(E) If the attorney files a written response to the Order to Show Cause within the time specified, stating that the criminal conviction or its underlying facts do not affect the attorney's fitness to practice law or stating that he or she contests the entry of an order of discipline, then the Court shall determine whether discipline should be imposed.

(F) The discipline to be imposed shall be within the Court's discretion. The Court may consider the underlying facts of the criminal conviction, the sentence imposed on the attorney, the gravity of the criminal offense, whether the crime involved dishonesty or corruption, the effect of the crime on the attorney's ability and fitness to practice law, and any other element the Court deems relevant to its

determination.

(G) Upon the Court's receipt of reliable proof demonstrating that the underlying criminal conviction has been reversed or vacated, any suspension order entered under subparagraph (7)(B) and any other discipline imposed solely as a result of the conviction may be vacated.

(H) The Court may, in its discretion, refer a matter involving an attorney's criminal conviction to the Committee of Discipline for evaluation pursuant to subparagraph (5) of this Rule. Nothing in this Rule requires the COurt to make such a referral.

(8) *Disciplinary Orders and Notices.*

(A) Any order of discipline, except for non-public forms of discipline, as stated in subparagraph (4)(E)-(F) herein, shall be a public record.

(B) The Court shall cause copies of all orders and notices of discipline, except for an admonition, to be given to the Clerk of the Court, the Clerk of the United States District Court for the Eastern District of Washington, the Clerk of the United States Court of Appeals for the Ninth Circuit, the Washington State Bar Association, and the appropriate disciplinary bodies in the jurisdictions in which the Court knows the disciplined attorney is admitted to practice.

(9) *Reinstatement Following Discipline under This Rule.*

(A) No attorney who has been suspended or disbarred under this Rule may resume practice before the Court until reinstated by order of the Court.

(B) Any attorney who has been disbarred under this Rule may not apply for reinstatement until the expiration of such period of time as the Court shall have specified in the order of disbarment.

(C) Any attorney who has been disbarred or suspended from practice pursuant to the provisions of subparagraph (6) (reciprocal discipline) may apply for reinstatement based upon a change of the attorney's status in the jurisdiction whose imposition of discipline upon the attorney was the basis for the imposition of reciprocal discipline by the Court.

(D) Petitions for reinstatement by disbarred or suspended attorneys shall be filed with the Chief Judge. Upon receipt of a petition, the Chief Judge shall set the matter for hearing by the Chief Judge or another designated judge. At such hearing, the petitioner shall have the burden of demonstrating that he or she is qualified to practice law before this Court. Following the conclusion of the hearing, the Court shall enter an appropriate order.

(E) Expenses incurred in the investigation and proceedings for reinstatement may be assessed by the Court against the petitioning attorney, regardless of the outcome of the proceedings.

The members of the bar of this court shall be governed by and shall observe the Rules of Professional Conduct promulgated by the Washington State Supreme Court and in effect at the time these rules are adopted, together with any amendments or additions thereto, unless such amendments or additions are specifically disapproved by the court.

(g) Appearance and Withdrawal of Attorneys.

(1) Whenever a party has appeared by attorney, he cannot thereafter appear or act in his own behalf in the cause, or take any step therein, unless an order of substitution shall first have been made by the court, after notice to the attorney of such party, and to the opposite party; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that he has appeared, or is represented by attorney.

(2) When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action for whom he was acting as attorney must, before any further proceedings are had in the action on his behalf, appoint another attorney or appear in person, unless such party is already represented by another attorney. Where there has simply been a change or addition of counsel within the same law office, an order of substitution is not required.

(3) The authority and duty of attorneys of record shall continue until there shall be a substitution of some other attorney of record, except as herein otherwise expressly provided, and shall continue after final judgment for all proper purposes.

(4) (A) No attorney shall withdraw an appearance in any cause, civil or criminal, except by leave of court. Leave shall be obtained by filing a motion or a stipulation for withdrawal or, if appropriate, by complying with the requirement of CrR 5(d)(2). A motion for withdrawal shall be noted in accordance with CR 7(d)(2) or CrR 12(c)(7) and shall include a certification that the motion was served on the client and opposing counsel. A stipulation for withdrawal shall also include a certification that it has been served upon the client. The attorney will ordinarily be permitted to withdraw until sixty days before the discovery cut off date in a civil case.

(B) If the attorney for a corporation is seeking to withdraw, the attorney shall certify to the court that he or she has advised the corporation that it is required by law to be represented by an attorney admitted to practice before this court and that failure to obtain a replacement attorney by the date the withdrawal is effective may result in the dismissal of the corporation's claims for failure to prosecute and/or entry of default against the corporation as to any claims of other parties.

(h) Entry of Appearance. An attorney eligible to appear may enter an appearance in a civil case by signing any pleading or other paper described in Rule 5(a), Federal Rules of Civil Procedure, filed by or on behalf of the party the attorney represents, or by filing a written praecipe noting the entry of his appearance and listing his correct address and telephone number.

(i) Legal Interns.

(1) *Admission to Limited Practice.* Qualified law students and graduates of approved law schools may be admitted to the status of legal intern and be granted a limited license to engage in the practice of law only as provided in this rule. To qualify, an applicant must:

(A) Be a student duly enrolled and in good academic standing at an approved law school with legal studies completed amounting to not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed four-year course of study; or

(B) Make the application before expiration of nine months following graduation from an approved law school, and submit satisfactory evidence thereof to the court; and

(C) Certify in writing under oath that the applicant has read, is familiar with, and will abide by, the Washington State Rules of Professional Conduct and this rule.

(2) *Procedure.* The applicant shall submit an application, for which no fee shall be required, setting forth the applicant's qualifications.

(A) The application shall give the name of, and shall be signed by, the supervising lawyer who, in doing so, shall assume the responsibilities of supervising lawyer set forth in this rule if the applicant is granted a limited license as a legal intern. The supervising lawyer shall be relieved of such responsibilities upon the termination of the limited license or at an earlier time if the supervising lawyer or the applicant gives written notice to the court requesting that the supervising lawyer be so relieved.

(B) Upon receipt of the application, it shall be examined and evaluated by a district judge or magistrate judge, who shall endorse thereon its approval or disapproval.

(3) *Scope of Practice.* A legal intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A legal intern shall be subject to all laws and rules governing lawyers admitted to this court and shall be personally responsible for all services performed as an intern.

(A) A judge may exclude a legal intern from active participation in a case

filed with the court in the interest of orderly administration of justice or for the protection of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising lawyer.

(B) No legal intern may receive payment from a client for the intern's services. However, nothing contained herein shall prevent a legal intern from being paid for services by the intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern, the intern's supervising lawyer or a lawyer from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status, and obtain the client's consent to be represented by a legal intern.

(C) A legal intern may advise or negotiate on behalf of a person referred to the intern by the supervising lawyer. A legal intern may prepare necessary pleadings, motions, briefs or other documents. It is not necessary in such instances for the supervising lawyer to be present.

(D) A legal intern may participate in all court proceedings, including depositions, provided the supervising lawyer or another lawyer from the same office is present. Unless otherwise ordered by the court, the supervising lawyer or another lawyer from the same office shall be present while a legal intern is participating in court proceedings. Ex parte and agreed orders may be presented to the court by a legal intern without the presence of the supervising lawyer or another lawyer from the same office.

(4) *Supervising Lawyer*. The supervising lawyer shall be admitted to practice before this court. The supervising lawyer shall have been actively engaged in the practice of law for at least three years at the time the application is filed.

(A) The supervising lawyer or another lawyer from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under the lawyer's supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising lawyer or a lawyer from the same office as the supervising lawyer. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising lawyer or lawyer from the same office as the supervising lawyer.

(B) Supervision shall not require that the supervising lawyer be present in the room while the legal intern is advising or negotiating on behalf of a

person referred to the intern by the supervising lawyer, or while the legal intern is preparing the necessary pleadings, motions, briefs, or other documents.

(C) As a general rule, no supervising lawyer shall have supervision over more than one legal intern at any one time. However, in the case of (I) the Federal Public Defender or the U.S. Attorney, the supervising lawyer may have supervision over two legal interns at one time, or (ii) a clinical course offered by an approved law school where such course has been approved by its dean and is directed by a member of its faculty, each full-time clinical supervising lawyer may have supervision over ten legal interns at one time.

(D) A lawyer currently acting as a supervising lawyer may be terminated as a supervising lawyer at the discretion of the court. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising lawyer, signed by the intern and by the new and qualified supervising lawyer, is given to the court.

(E) The failure of a supervising lawyer, or lawyer acting as a supervising lawyer, to provide adequate supervision or to comply with the duties set forth in this rule shall be grounds for disciplinary action by the court.

(F) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the lawyer providing supervision for the intern.

(G) For purposes of this provision of this rule which permit a lawyer from the same office as the supervising lawyer to sign documents or be present with a legal intern during court appearances, the lawyer so acting must be one who meets all of the qualifications for becoming a supervising lawyer under this rule.

(5) *Term of Limited Admission to Practice.* A limited admission to practice as a legal intern shall be valid, unless revoked, for a period of not more than 24 consecutive months, provided that a person shall not serve as a legal intern more than 12 months after graduation from law school.

(A) A limited admission to practice before the court is granted at the sufferance of the court and may be revoked at any time upon the court's own motion.

(B) An intern shall immediately cease performing any services under this

rule and shall cease holding himself out as a legal intern (i) upon termination for any reason of the intern's limited license under this rule; or (ii) upon the resignation of the intern's supervising lawyer; or (iii) upon the suspension or termination by the court of the supervising lawyer's status as supervising lawyer; or (iv) upon the withdrawal of approval of the intern pursuant to this rule.

[Effective May 1, 1992; amended effective October 13, 1994; July 1, 1997; January 1, 2002; January 1, 2005.]

GR 3. EXPEDITION OF COURT BUSINESS--SANCTIONS AND PENALTIES

(a) If the court determines at the time of trial that any party has failed to reveal the name of a witness or disclose an exhibit in the pretrial order or during pretrial proceedings, the court may direct that the testimony of such witness and/or such exhibit shall be inadmissible or may impose terms.

(b) Attorneys are expected to advise the clerk promptly when a case is settled or when for other reasons it will not be ready for trial at the time set. An attorney who fails to give the clerk such prompt advice may be subject to such discipline as the court deems appropriate, including the imposition of costs or of a fine.

(c) Failure of an attorney for any party to appear at pretrial conference or to complete the necessary preparations therefor or to meet and confer as provided by these rules, or to appear or be prepared for trial on the date assigned, may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or the entire case.

(d) An attorney or party who without just cause fails to comply with any of the Federal Rules of Civil or Criminal Procedure, or these rules, or orders of the court, or who presents to the court unnecessary motions or unwarranted opposition to motions, or who fails to prepare for presentation to the court, or who otherwise so multiplies or obstructs the proceedings in a case as to increase the cost thereof unreasonably and vexatiously, may, in addition to, or in lieu of the sanctions and penalties provided elsewhere in these rules, be required by the court to satisfy personally such excess costs, and may be subject to such other sanctions as the court may deem appropriate.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 4. PHOTOGRAPHY, TELEVISING, BROADCASTING

Pursuant to the direction of the Judicial Conference of the United States, the taking of photographs or the electronic recording of proceedings in the courtroom or its environs in connection with any judicial proceeding and the broadcasting of judicial proceedings by radio, television or other means is prohibited, except as provided in this rule.

As used herein "judicial proceeding" means: (1) any trial, naturalization proceeding or ceremonial occasion in any United States District Court; (2) any proceeding before any Bankruptcy judge or United States magistrate judge; (3) sessions of the grand jury; (4) any person participating in a judicial proceeding, including petit and grand jurors. "Courtroom" of a United States District Court means the foyer, witness room, and all space behind the double doors containing the courtroom number and the name of the judge. "Courtroom" of a United States magistrate judge means any place where a judicial proceeding is conducted.

"Environs" means any area located within the interior confines of the United States Courthouse, including but not limited to the entrances, hallways, stairwells, corridors, foyers and lobbies therein.

With the consent of the presiding judge and under such conditions as he may prescribe, some variations in this policy may be allowed for ceremonial occasions.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 5. BONDS

(a) Deleted

(b) Deleted

(c) Qualifications of Surety--Cash Deposit. Every bond must have as surety either (1) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under 31 U.S.C. § 9305 or a corporation authorized to act as surety under the laws of the State of Washington, which corporation shall have on file with the clerk a certified copy of its certificate of authority to do business in the State of Washington, together with a certified copy of the power of attorney appointing the agent authorized to execute the bond, or (2) two individual residents of the district, each of whom owns real or personal property within the district sufficient to justify the full amount of the suretyship, or (3) a cash deposit of the required amount may be made with the clerk upon the filing of a bond signed by the principals.

(d) Bail Reform Act. In criminal cases where conditions of release have been set under the bail reform act, a bond with sureties other than as set out in paragraph (c) of this rule may be approved by a judicial officer.

(e) Court Officers as Sureties. No clerk, marshal, member of the bar, or other officer of this court will be accepted as surety on any bond or other undertaking in any action or proceeding in this court. Cash deposits on bonds may be made by members of the bar on oral certification that the funds are the property of a specified person who has signed as surety on the bond. Upon voiding of the bond, such moneys shall be returned to the surety alone and not to the attorney.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 6. INVESTMENT OF REGISTRY FUNDS

(a) Investment of Registry Funds. Funds deposited in the registry of the court in interest-bearing accounts will accrue interest at a rate approximating the passbook interest rate of local savings institutions insured by the F.D.I.C. Counsel or parties who wish to have such funds invested in other types of interest-bearing accounts, certificates of deposit or treasury bills should submit an order specifying the specific medium of investment. That order shall be personally served upon the clerk, chief deputy clerk or the deputy in charge of the Tacoma division who will submit it to the appropriate judge for approval. The investment will be made forthwith after approval by the court.

The clerk is directed to deduct from the income earned on the investment a fee as proscribed by the Judicial Conference of the United States and set by the Director of the Administrative Office.

This amendment shall be effective beginning with deposit of funds with the court on December 1, 1990.

(b) Disbursement of Registry Funds. All motions for disbursement of registry funds shall specify the principal sum initially deposited, the amount(s) of principal funds to be disbursed and to whom the disbursement is to be made, and shall contain complete mailing instructions. Each proposed order shall contain the following language: "... the clerk is authorized and directed to draw a check(s) on the funds on deposit in the registry of this court in the principal amount of $_____ plus all accrued interest, minus any statutory users fees, payable to (name and address of payee) and mail or deliver the check(s) to (name of payee) at (full address)." If more than one check is to be issued pursuant to a single order, the portion of principal and interest due each payee must be separately stated.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 7. BANKRUPTCY CASES, PROCEEDINGS AND APPEALS

Part I. Referral of Bankruptcy Cases and Proceedings.

1.01 *Cases and Proceedings Under Title 11, United States Code.* This court hereby refers to the bankruptcy judges of this district all cases under Title 11, and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

1.02 *Cases and Proceedings Under the Bankruptcy Act of 1898.* The bankruptcy judges of this district shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to section 403(a) of the Bankruptcy Reform Act of 1978.

Part II. Bankruptcy Appeals.

2.01 *Bankruptcy Appellate Panel.*

(a) Pursuant to 28 U.S.C. § 158(b)(2), this court hereby authorizes a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in subparagraphs (b) through (d).

(b) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to paragraph 2.02 of this order.

(c) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(d) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after July 20, 1984, and appeals transferred to this court from the previous Ninth Circuit bankruptcy appellate panel by section 115(b) of The Bankruptcy Amendments and Federal Judgeship Act of 1984, PL 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rule of this district.

2.02 *Form and Time of Consent.*

(a) The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless written objection thereto is timely made in accordance with the Orders Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit.

2.03 *Rules Governing Bankruptcy Appeals.*

(a) Practice in such bankruptcy appeals as may come before this district shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this order or in rules subsequently adopted by this district court.

(b) Notwithstanding subparagraph (a), the time for filing appellant's, appellee's, and reply briefs for consideration by the district court shall be 40 days, 30 days, and 14 days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Rules of Bankruptcy Procedure; provided, however, that the district court or the bankruptcy appellate panel may shorten these time limits in appropriate cases.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 8. ASSIGNMENT OF CASES

(a) All actions, causes, and proceedings, civil and criminal, shall be assigned by the clerk to the respective judges of the court.

(b) A judge may transfer directly all or part of any case on the judge's docket to any consenting judge.

(c) Whenever a motion to recuse due to alleged bias or prejudice directed at a judge of this court is filed pursuant to 28 U.S.C. § 144, the clerk shall refer it to the chief judge. If the motion is directed at the chief judge, the clerk shall refer it to the next senior active judge. Before a ruling is made on a motion to recuse any judge, the challenged judge will be afforded an opportunity to review the motion papers and decide whether to recuse voluntarily.

[Effective May 1, 1992; amended effective July 1, 1997.]

GR 9. PROHIBITION OF BIAS

Litigation, inside and outside the courtroom in the United States District Court for the Western District of Washington, must be free from prejudice and bias in any form. Fair and equal treatment must be accorded all courtroom participants, whether judges, attorneys, witnesses, litigants, jurors, or court personnel. The duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias toward another on the basis of categories such as gender, race, ethnicity, religion, disability, age, or sexual orientation.

[Adopted effective September 30, 1994; amended effective July 1, 1997.]